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*Athalonz, LLC*

**UNITED STATES DISTRICT COURT**  
**NORTHERN DISTRICT OF CALIFORNIA**  
**SAN FRANCISCO DIVISION**

ATHALONZ, LLC,

Plaintiff,

v.

UNDER ARMOUR, INC.,

Defendant.

Case No. 3:23-mc-80324-LJC

**PLAINTIFF'S OPPOSITION TO  
ADMINISTRATIVE MOTION TO  
STRIKE PLAINTIFF'S REPLY IN  
SUPPORT OF MOTION FOR DE NOVO  
DETERMINATION**

1 Mr. Curry's Motion to Strike should be denied for two independent reasons.

2 **First**, Athalonz's Reply was authorized under Local Rule 7-3. Athalonz moved under Fed.  
 3 R. Civ. P. 72(b) and L.R. 72-3 for De Novo Determination of Dispositive Matter Referred to  
 4 Magistrate Judge. Dkt. 24. Local Rule 72-3(a) provides that "Any objection filed pursuant to Fed.  
 5 R. Civ. P. 72(b) . . . must be made pursuant to Civil L.R. 7-2[.]" Local Rule 7-2 explains the required  
 6 timing and form of motions. A motion filed under L.R. 7-2 triggers L.R. 7-3, which in turn provides  
 7 for both opposition and reply briefs. Indeed, Mr. Curry filed his response on the timeline imposed by  
 8 L.R. 7-3(b). *See* Dkt. 26 (filed 14 days after Athalonz's motion). Mr. Curry further acknowledged  
 9 that L.R. 7-3 applies by filing a Statement of Recent Decision under L.R. 7-3(d)(2). Dkt. 33. There  
 10 is no dispute that Athalonz complied with the page limits and timing requirements in L.R. 7-3(c).

11 The fact that Fed. R. Civ. P. 72(b) and L.R. 72-3 do not expressly authorize replies does not  
 12 mean they are prohibited, particularly given the structure of Local Rule 7. Courts in this district have  
 13 permitted replies to 72(b) motions, *see In re Soc. Media Adolescent Addiction/Pers. Inj. Prod. Liab.*  
 14 *Litig.*, 2024 WL 251404, at \*4 (N.D. Cal. Jan. 23, 2024) (noting, without comment, that movant  
 15 replied); *Moore v. Verizon Commc's Inc.*, 2014 WL 588035, at \*2 (N.D. Cal. Feb. 14, 2014) (same),  
 16 and courts outside this district have also permitted replies, *see Orient Express Container Co. v. Bulb*  
 17 *Basics LLC*, No. 1:21-CV-7752-GHW, 2022 WL 4485214, at \*4 (S.D.N.Y. Sept. 27, 2022) ("[A]  
 18 district court may exercise its discretion to permit a party to file a reply brief in support of its  
 19 objections to a magistrate judge's recommendations."). There is no dispute that the Local Rules do  
 20 not *prohibit* reply briefs, and the fact that all motions filed under Local Rule 7-3 include reply briefs  
 21 should end the matter.

22 If, however, the Court finds that leave is required to file a reply brief, Athalonz respectfully  
 23 requests that leave be granted here. The applicable rules do not forbid a reply, and Athalonz's brief  
 24 advances no new arguments and solely responds to Mr. Curry's arguments, providing a more  
 25 complete and fulsome record on which the Court can make its determination.

26 **Second**, Mr. Curry's motion should be denied for failure to follow this Court's Local Rules  
 27 for administrative motions. Mr. Curry filed his motion under L.R. 7-11, which "must be accompanied  
 28 . . . by either a stipulation under Civil L.R. 7-12 or by a declaration that explains why a stipulation

1 could not be obtained.” L.R. 7-11(a). Mr. Curry provided no stipulation and no declaration—indeed,  
2 Mr. Curry made no attempt to contact Athalonz at all before filing his administrative motion. *See*  
3 Dkt. 32 (enclosing only a proposed order). Additionally, Mr. Curry waited unreasonably long to file  
4 his motion. Although L.R. 7-11 does not proscribe a filing time, the local rule governing replies  
5 requires that objections to reply evidence be filed within seven days. *See* L.R. 7-3(d)(1). Mr. Curry  
6 provides no explanation for why he waited more than a month to move for relief. *Compare* Dkt. 27  
7 (Athalonz’s reply brief filed on March 18) *with* Dkt. 32 (Mr. Curry’s motion filed on April 22). Mr.  
8 Curry’s own flaunting of the Local Rules and undue delay also warrant denial of his motion.

9 For the reasons set forth above, Athalonz respectfully requests that the Court deny Mr. Curry’s  
10 Motion to Strike.

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13 Dated: April 26, 2024

Respectfully submitted,

14 REICHMAN JORGENSEN LEHMAN &  
15 FELDBERG, LLP

16 By /s/ Jennifer Estremera

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